

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
WRIT PETITION NO.11838 OF 2022**

**SHARDUL SHAMPRASAD DEV
VERSUS
MANJIRI SHARDUL DEV AND OTHERS**

...

Mr. Rajendra Deshmukh, Senior Advocate h/f Mr. Sanket Kulkarni, Advocate for the Petitioner.

Mrs. M. L. Sangit, Advocate for Respondent.

...

**CORAM : SANDEEP V. MARNE, J.
DATED : 29th NOVEMBER, 2022.**

PER COURT:-

1. This petition is filed by petitioner challenging order dated 01.10.2022 passed by the District Judge-2, Kopargaon. That order is interpreted by petitioner to mean as if the District Court is not going to decide any of the pending interim applications before taking up the main Civil M.A. No.03/2020 for hearing.

2. On 26.08.2022 this Court has passed order in Writ Petition No.14587/2021 and issued following directions to the District Court:

“5. In the light of the above facts, this petition is disposed of, with direction to the trial Court to decide the pending interim applications within a period of two months from today. Civil M.A. No.03/2020 shall be decided within a period of three months thereafter.”

3. Following are the applications which are pending decision in Civil M.A. No. 03/2020:

Exhibit No.	Purpose of Application
24	Appointment of Court Commissioner.
31	For independent interaction of minor with a specialist.

83	Seeking change in visitation conditions suitable to the minor.
87	Video recording and supervised visitation of both parents.
104	To cancel visitation rights of the respondent no.1.
173	Seeking action against the respondent no.1 for abusing the child during visitation.
178	Seeking action against the respondent no.1 for abusing the child during visitation and cancellation of visitation rights.
191	Dismissal of the proceedings for Non joinder of minor as necessary party.
198	Seeking change of visitation time by the respondent no.1.
199	Say filed by the petitioner to exhibit 191 and seeking suspension of visitation rights of respondent no.1.
201	Seeking of temporary custody by respondent no.1.
205	Say to exhibit 201 and seeking recording displeasure of minor towards respondent no.1 behavior in visitation.
221	To cancel visitation rights due to change in circumstances.
222	To change the visitation time.

4. Except application no.201, which is filed by respondent-wife, rest of the applications are filed by petitioner-husband.

5. Mr. Deshmukh, the learned Senior Advocate appearing for petitioner-husband would submit that approach of the District Judge in proceeding to decide Civil M.A. No.03/2020 before deciding pending interim applications is in violation of the order passed by this Court on 26.08.2022.

6. Mrs. Sangit, the learned counsel appearing for respondent-wife on the other hand submits that petitioner-husband has deliberately filed numerous applications with a view to delay decision of main Civil M.A. No.03/2020. She would submit that after passing of the order dated 26.08.2022, petitioner-husband did not press any of the pending interim applications before the District Court and therefore, District Court cannot be accused of not deciding them. Be that as it may. The order passed by this Court on 26.08.2022 is required to be followed by the District Court.

7. Since the number of interim applications pending decision appear to be quite large in number, on a query made by this Court Mr. Deshmukh has fairly submitted, after taking instructions from Petitioner-husband, that the applications at Exhibits 83, 87, 104, 198, 199, 205, 221 and 222 shall not be pressed by petitioner-husband. He would further submit that applications at Exhibits 173 and 178 can be considered and decided at the time of final hearing of main Civil M.A. No.03/2020. Only prayer that Mr. Deshmukh makes is that applications at Exhibits 24, 31 and 191 be decided before taking the main Civil M.A. No.03/2020 for final hearing.

8. Mrs. Sangit, learned counsel appearing for respondent-wife submits that the application at Exhibit 201 filed by respondent-wife can also be taken up for hearing and decided alongwith Civil M.A. No.03/2020.

9. Considering the above position emerging before me, I dispose of the present petition with following directions:

- i. The District Judge-2, Kopargaon shall hear and decide applications at Exhibits 24, 31 and 191 on or before 15.12.2022. It is expressly made clear that if petitioner-husband does not cooperate in decision of these applications at Exhibits 24, 31 and 191, the District Judge-2, Kopargaon shall be at liberty to dismiss the said applications.
- ii. The applications filed by petitioner-husband at Exhibits 173 and 178 as well application filed by respondent-wife at Exhibit 201 shall be heard and decided by the District Judge-2, Kopargaon while hearing and deciding Civil M.A. No.03/2020.
- iii. With the above directions, writ petition is disposed of.

(SANDEEP V. MARNE)
JUDGE